



STATE BOARD OF EQUALIZATION

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November 2, 1995

Mr. K--- C---
N--- W--- P---
XXX-X --- --- Road
Suite XXX
---, CA XXXXX

Re: Account No. SR -- XX-XXXXXX

Dear Mr. C---:

This responds to your letter dated August 31, 1995 “regarding sales tax for video production services. You write that your business, N--- W--- P--- (N---) produces corporate videos, mostly sales, marketing and training videos. You ask whether these videos are “qualified motion picture[s]” within the meaning of Sales and Use Tax Regulation 1529 and, “therefore, [if] any labor that went into the production of the video master tape was not taxable; but only the material costs and duplication are taxable.” For purposes of this opinion, we assume that by “video production services” and “production” of video tapes you refer to producing a motion picture or performing qualified production services within the requirements of Regulation 1529.

Enclosed is a copy of Sales and Use Tax Regulation 1529. As provided in subdivision (b), when you produce a film or videotape which is a “qualified motion picture,” tax does not apply to your charge to your client. Rather, you are the consumer of, and tax applies to the sale to you of, tangible personal property which you use in making the qualified motion picture.

A qualified motion picture includes any film or videotape which is produced for exploitation in, on, or through any medium or by a device for any purpose. (Reg. 1529(b)(1).) A qualified motion picture includes, but is not limited to, motion pictures produced for display at theaters, amusement parks, or on commercial carriers; television shows, including closed circuit and broadcast; commercials; trailers; television spots; specials; featurettes; “promos”; “sneaks”; corporate training and sales presentations; video press kits, music videos; and special effects, titles, and credits which are embodied on film, tape, or other motion picture media. (Reg. 1529(b)(1)(A)1.) However, a qualified motion picture does not include films or videotapes for private noncommercial use, such as motion pictures of weddings or graduations to be used as family mementos, accident reconstruction videotapes to be used for legal analysis, or student films to be used for class projects. (Reg. 1529(b)(1)(B).)

Since the videos which you produce are sales, marketing and training videos, they are qualified motion pictures within the meaning of Regulation 1529, and tax does not apply to your charges to your clients for production of these videotapes. Tax does apply, however, to the sale to you of any tangible personal property which you use in making the sales, marketing and training videos. This includes the raw stock which you process to transfer to your client as the final product. (Reg. 1529(b)(2)(B).) When you provide duplicates to your client to use, tax applies to your sale of the duplications or release prints. (See Reg. 1529(b)(3) & (d)(11).)

We also note, for your information, that tax applies to other retail sales of tangible personal property which you make. For example, if you purchase items, such as props or costumes, to include in scenes in your videotape and transfer title to the items to your client in California, this is a retail sale subject to sales tax. (Reg. 1529(b)(2)(C).)

I hope this information is of assistance. If we may answer any further questions, please write again describing your production work in more detail.

Sincerely,

Sharon Jarvis
Staff Counsel

SJ:rz

Enclosure: Reg. 1529

cc: --- --- District Administrator - --